

CHAPTER 9
GROUNDWATER HAZARD DOCUMENTATION

561—9.1(558) Authority, purpose and application.

9.1(1) Authority. Pursuant to Iowa Code section 558.69, the department is required to adopt rules pertaining to a statement to be submitted to the recorder when recording instruments transferring real property regarding the existence and location of wells, disposal sites, underground storage tanks, and hazardous wastes on the property.

9.1(2) Purpose. The purpose of these rules is to provide the necessary forms, instructions, and explanation of this requirement. It is the purpose of the statute to give notice to the transferee of real property of the condition of the wells, disposal sites, underground storage tanks, hazardous waste disposal, and private burial sites existing on the real estate.

9.1(3) Applicability. These rules shall apply to all persons, corporations, and other legal entities who are transferors or transferees of real property within the state of Iowa as well as all county recorders who are called upon to record instruments transferring real property in Iowa.

9.1(4) When groundwater hazard statement is required. A groundwater hazard statement shall be presented to the county recorder along with the real estate transaction documents for any real estate transaction in which a declaration of value is required to be submitted pursuant to Iowa Code chapter 428A. Additionally, a groundwater hazard statement shall be presented at the time of the recording of the following real estate transaction documents which are exempt from the filing of a declaration of value:

a. Any recorded lease of land which has a term of five years or more, except leases related to the construction or maintenance of cell phone, television, radio or similar electronics towers and leases related to the construction or maintenance of electricity-generating wind turbines. Leases or easements reserving rights to the future construction of the tower and wind turbine structures exempted by this subrule are similarly exempted. A lease of land does not include a lease of a portion of a building such as an apartment lease or business location within a mall or other multitenant building.

b. Any voluntary transfer or receipt of real property by governmental entities if title to that property was voluntarily acquired by the governmental entity. Governmental transactions which are exempted from the filing of a groundwater hazard statement include sheriff's deeds, tax deeds, and any other transaction for which the governmental entity did not voluntarily acquire title. A groundwater hazard statement is not required to accompany a clerk's change of title.

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561—9.2(558) Form.

9.2(1) The transferor or the transferor's agent or attorney shall sign department Form 542-0960, "Groundwater Hazard Statement," which may be obtained from the department or local county recorder. An agent or attorney may sign the form for the transferor, but in doing so the agent or attorney represents that a good faith inquiry of the transferor has been made regarding the information contained in the form and that the information is correct. The department hereby adopts by reference Form 542-0960, "Groundwater Hazard Statement," as amended through April 1, 2009. For all real estate transactions dated July 1, 2009, or later, a county recorder shall accept only the amended and revised form, as adopted by reference. The department authorizes the reproduction of Form 542-0960 by any person through photocopying or electronic means so long as the general format and wording are not altered in the reproduction thereof.

9.2(2) The form shall be submitted to the county recorder, in the form prescribed by the recorder, at the time that a real estate transaction document with which a groundwater hazard statement is required by 9.1(4) is filed with the county recorder.

9.2(3) In all cases, the county recorder shall return the original of the statement to the transferee when the recorded instrument is returned. If the statement submitted reveals that there is a well, a disposal site, an underground storage tank, or hazardous waste on the property, a copy of the form shall be submitted to the department within 15 days after the close of each month. If a standardized electronic format is established by agreement between the Iowa County Recorders Association and the department, then the

department's copy may be submitted electronically in the manner established by the agreement. Forms on which a private burial site is the sole matter disclosed and which do not reveal the existence of a well, disposal site, underground storage tank, or hazardous waste on the property shall not be submitted to the department. Forms shall be retained by the department for a period of five years.

9.2(4) The form shall include the name and address of both the transferor and transferee; the street address of the real estate involved; and the legal description of the real estate involved.

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These rules are intended to implement Iowa Code section 558.69.

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